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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN BROSNAN,
Plaintiff,

Case No. **C24-06264**

HSG

v.

EKE MOTORSPORTS INC., DOES 1 TO 9,
Defendants.

VIOLATION OF THE AMERICANS WITH
DISABILITIES ACT OF 1990 42 U.S.C. § 12181
BY FAILING TO PROVIDE HANDICAPPED
PERSON PARKING

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Plaintiff is handicapped and a holder of a Disabled Person Parking Placard and complains of EKE MOTORSPORTS INC. ("EKE"). EKE operates a business open to the public which is a place of public accomodation.

2. Plaintiff went to EKE and found that EKE does not have an American with Disabilities Act (ADA) approved Handicapped Person Parking Space. Plaintiff does not know why EKE discriminates against disabled people.

3. Plaintiff qualifies as a member of a protected class under the ADA. At the time of Plaintiff's visits to Defendants and prior to instituting this action, Plaintiff suffered from a qualified disability under the ADA. Prior to filing this instant action Plaintiff contacted Defendants to inquire if Defendants would be willing to have their attorney contact Plaintiff in order to resolve the ADA violation issue without Plaintiff resorting to litigation. An attorney for Defendants did not contact Plaintiff prior to Plaintiff filing this instant action. As of the filing of this instant action Defendants do not have an ADA compliant Handicapped Person Parking Space. But for the fact than an attorney for Defendants did not contact Plaintiff regarding the issues related to this instant action, Plaintiff would not have brought this action.

PARTIES :

4. John Brosnan ("Plaintiff") is a California resident.

5. EKE Motorsports INC., ("EKE") is a California Corporation.

6. Plaintiff believes, and thereon alleges, that each of the Defendants was, at all times herein mentioned, the agent, employee, partner and/or representative of one or more of the remaining Defendants and was acting within the course and scope of such relationship. Plaintiff is further informed and believes that each of the Defendants herein gave consent to, ratified and authorized the acts alleged herein to each of the remaining Defendants. The true names and capacities of Defendants named herein as Does, whether individual, corporate, associate or otherwise are unknown to Plaintiff, who therefore sues said Defendants by fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff will amend this Complaint to show such true names and capacities of Does, when they have been determined.

JURISDICTION AND VENUE :

7. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq. 6 and is founded on the fact that the real property which is the subject of this action is located in this district and that Plaintiff's cause of action arose in this district.

FACTUAL ALLEGATIONS :

8. EKE is a place of of public accommodation Plaintiff went to prior to filing this instant action, to avail himself of goods or services offered by EKE and found that EKE did not have an ADA Compliant Handicapped Person parking Space. The failure of EKE to have a handicapped person parking space created difficulty for Plaintiff. Plaintiff would like to return to EKE but will not due to the fact that Defendants discriminate against disabled people.

9. United States Congress enacted the Americans With Disabilities Act ("ADA") in order to prohibit places of public accommodation from discriminating against individuals with disabilities. The ADA was signed into law on July 26, 1990, by President George H.W. Bush The ADA was designed to eliminate all discriminatory effects of architectural, transportation, and communication barriers. **All businesses have a legal obligation to comply with the ADA.**

10. EKE does not have an exemption permitting them to violate the ADA.

11. EKE does not have a valid reason for violating the ADA.

12. EKE can easily comply with the ADA.

FIRST CAUSE OF ACTION

VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990, 42 U.S.C. § 12181

DEFENDANTS

13. Plaintiff hereby incorporates by reference all previous paragraphs.

14. Defendants violated the ADA.

15. Plaintiff prays for judgment against Defendants, as more fully set forth below.

JURY DEMAND

16. Plaintiff demands a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against the Defendants and each of them as follows:

1. A preliminary and permanent injunction enjoining Defendants from further violations of the ADA.

2. All additional awards allowable by law;

3. For reasonable attorneys' fees, litigation expenses, and costs of suit, pursuant to 42 U.S.C. § 12205; California Civil Code § 52. And an Order requiring Defendants shall have to always be in full compliance with the ADA;

4. That this case be found an exceptional case under 35 U.S.C. § 285, entitling Plaintiff to be awarded the attorney fees, costs, and expenses that he incurs in prosecuting this action;

5. For general damages according to proof;

6. For an award of reasonable attorneys' fees and costs according to proof;

7. For costs of suit; and

8. Other and further relief as the Court deems just and proper.

DATED: 09/01/24



John Brosnan